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INFORMATION TECHNOLOGY LAW

Donald M. Cameron and Richard C. Owens, Smith Lyons

VOLUME 1

SMITH LYONS

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September 1997

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INFORMATION TECHNOLOGY LAW¹

University of Toronto, Fall 1997

Adjunct Professors:

Donald M. Cameron and Richard C. Owens, Smith Lyons

*In addition to the material in Volumes 1, 2 and 3,
other assigned course materials are available online at
www.SmithLyons.ca/it/course.htm and www.JurisDiction.com/course.htm.*

COURSE MATERIALS - VOLUME 1: PRINTED MATERIALS²

I - FULL COURSE READING LIST

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- 1 - p. 3 Full Course Reading List (Printed and Electronic Materials) as of August 1997.

II - INTELLECTUAL PROPERTY

A. Introduction to Intellectual Property

- 2 - p. 23 Mistrale Goudreau (English translation by David Vaver), "Protecting Ideas and Information in Common Law Canada and Quebec" (1983) 8 *Intellectual Property Journal* 189.

B. Copyright

(i) Canadian Case Law

- 3 - p. 41 *Delrina Corp. v. Triolet Systems Inc.* (1993), 47 C.P.R. (3d) 1 (O.C.G.D.).
- 4 - p. 71 *Prism Hospital Software Inc. v. The Hospital Records Institute* (1994), 57 C.P.R. (3d) 129 (B.C.S.C.) [headnote only].

¹ Highest scoring student in the course will be awarded the Smith Lyons Prize for Information Technology Law.

² Materials prepared with the assistance of Stacey Belding, Summer Student; David Castell and Robert Percival, Students at Law; and Tom Onyshko, Associate, Smith Lyons.

(ii) United States Case Law

- 5 - p. 81 *Whelan Associates, Inc. v. Jaslow Dental Laboratory, Inc.*, 797 F.2d 1222, 1 CCH Computer Cases, para. 45,015 (U.S.C.A. 3rd Cir., 1986).
- 6 - p. 93 *Computer Associates International Inc. v. Altai*, 982 F.2d 693, 3 CCH Computer Cases, para. 46,666 (U.S.C.A. 2nd Cir., 1992).
- 7 - p. 105 *Gates Rubber Company v. Bando Chemical Industries*, 9 F.3d 823, [1993] CCH Copyright Law Decisions (U.S.C.A. 10th Cir., 1993).
- 8 - p. 117 *Lotus Development Corporation v. Borland International*, 49 F.3d 807, 5 CCH Computer Cases, para. 47,217 (U.S.C.A. 1st Cir., 1995).
- 9 - p. 125 *Lotus Development Corporation v. Borland International*, 116 S. Ct. 695, 6 CCH Computer Cases, para. 47,368 (U.S.S.C., 1996).

(iii) United States Policy Paper

- 10 - p. 129 United States of America, National Commission on New Technological Uses of Copyrighted Works, *Final Report*, dissent of Commissioner Hersey, (Washington: July 31, 1978).

C. Patents

(i) Examples of Patents

- 11 - p. 159 "Securities Brokerage - Cash Management System with Short Term Investment Proceeds Allotted Among Multiple Accounts": U.S. Patent No. 4,774,663 (September 27, 1988).
- 12 - p. 175 "Multimedia Search System Using a Plurality of Entry Path Means Which Indicate Interrelatedness of Information" (also known as the "Compton's Patent"): U.S. Patent No. 5,241,671 (August 31, 1993).

(ii) Patent Guidelines

- 13 - p. 213 Canadian Intellectual Property Office, "Guidelines related to the Patentability of Computer-Related Subject Matter" (20 February 1995) *Canadian Patent Office Record* p.10.

D. Trade Secrets and Confidential Information

(i) Introductory Material

- 14 - p. 217 Jeff C. Dodd, "Rights in Information: Conversion and Misappropriation Causes of Action in Intellectual Property Cases" (1995) 32 *Houston Law Review* 459.
- 15 - p. 241 Gale R. Peterson, *Trade Secret Protection in an Information Age* (Little Falls: Glasser LegalWorks, 1997) [excerpt].

(ii) Canadian Case Law

- 16 - p. 303 *LAC Minerals Ltd. v. International Corona Resources Ltd.* (1989), 61 D.L.R. (4th) 14 (S.C.C.).
- 17 - p. 341 *Pharand Ski Corp. v. The Queen in Right of Alberta* (1991), 37 C.P.R. (3d) 288 (Alta.Q.B.).

E. Data Rights

- 18 - p. 367 *R. v. Stewart* (1988), 41 C.C.C. (3d) 481 (S.C.C.).
- 19 - p. 379 *GEAC J & E Systems Ltd. v. Craig Erickson Systems Inc.* (1992), 46 C.P.R. (2d) 25 (O.C.G.D.).
- 20 - p. 401 *U & R Tax Services Ltd. v. H & R Block Canada Inc.* (1995), 62 C.P.R. (3d) 17 (F.C.T.D.).

III - CRIMINAL LAW

- 21 - p. 413 Robert W.K. Davis & Scott C. Hutchinson, *Computer Crime in Canada* (Toronto: Carswell, 1997) [excerpt].

COURSE MATERIALS - VOLUME 2: PRINTED MATERIALS

IV - PRIVACY ISSUES

A. Newspaper and Journal Articles

- 22 - p. 3 Rheal Seguin, "Quebec police probe data sales: Firms said to buy government files" *The Globe and Mail* (6 March 1997) pp. A1, A6.
- 23 - p. 7 Ijeoma Ross, "Ottawa, provinces consider single ID card - Proposal central data registry would pool information on recipients of social benefits nationwide" *Globe and Mail* (26 May 1997) pp. A1, A7.
- 24 - p. 11 Richard C. Owens, Tom S. Onyshko and Peter C. Goode, "Reform Proposals relating to Customer Privacy and Tied Selling in the Federally Regulated Financial Services Sector" (paper presented to The Queen's Annual Business Law Symposium, "The Regulation of Financial Institutions: Issues & Perspectives," 22 November 1996).
- 25 - p. 55 Colin J. Bennett and Jason M. Young, "Toward Effective and Enforceable Privacy Protection: Policy Solutions for the Canadian Information Market" (1997) 13 *Canadian Intellectual Property Review* 243.

B. Quebec Legislation

- 26 - p. 65 *Civil Code of Quebec*, S.Q. 1991, c. 64, Chapter III - Respect of Reputation and Privacy.
- 27 - p. 69 *An Act Respecting the Protection of Personal Information in the Private Sector*, S.Q. 1993, c. 17.

V - COMMERCIAL CONTRACTS AND LICENSING

A. Light Reading on Serious Risks

- 28 - p. 95 Evan I. Schwartz, "It's Time to Clean Up Credit Reporting" (18 May 1992) *Business Week* 52.
- 29 - p. 99 Peter G. Neumann, "Inside Risks: Aggravation by Computer: Life, Death and Taxes" (July 1992) 35 *Communications of the ACM* 122.

- 30 - p. 103 Peter G. Neumann, "Inside Risks: Fraud by Computer" (August 1992) 35 *Communications of the ACM* 154.
- 31 - p. 107 Peter G. Neumann, "Inside Risks: Accidental Financial Losses" (September 1992) 35 *Communications of the ACM* 194.
- 32 - p. 111 Peter G. Neumann, "Inside Risks: Where to Place Trust" (October 1992) 35 *Communications of the ACM* 138.
- 33 - p. 115 Barbara W. Rose, "Fatal Dose" (June 1994) *Saturday Night* 24.
- 34 - p. 125 Barbara W. Rose, "Technology - Danger: Software at Work" (24 February 1995) *Report on Business Magazine* 74.

B. Canadian Legislation

- 35 - p. 135 *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 [excerpts].
- 36 - p. 139 *Radiocommunication Act*, R.S.C. 1985, c. R-2 [excerpts].

C. Journal Articles

- 37 - p. 143 Bruce A. McDonald, "Copyright Issues Raised by the Outsourcing of Information Services" (September 1993) *Copyright World* 34.
- 38 - p. 155 Richard C. Owens, "Minimizing Risk with Third-Party Distributors" (1996) 2 *Software Marketing Journal* 48.

VI - STRUCTURE, FINANCING AND TAXATION

A. Introductory Material

- 39 - p. 163 Richard C. Owens & Dale A.J. Dietrich, "Some Questions to Ask when Taking Security against Intellectual Property" (March 1997).
- 40 - p. 175 Tim S. Wach, "Intellectual Property and Taxation: Lecture Notes" (March 25, 1997).
- 41 - p. 185 Colleen Spring Zimmerman, Lise Bertrand and Leslie Dunlop, "Intellectual Property in Secured Transactions" (1991) 8 *Canadian Intellectual Property Review* 74.

B. Legislation and Treaties

- 42 - p. 213 *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.) [excerpt].
- 43 - p. 219 *Convention between Canada and the United States of America with respect to Taxes on Income and on Capital signed on September 26, 1980, as amended by the protocols signed on June 14, 1983 and March 28, 1984* [excerpt].

VII - REGULATION OF THE INTERNET

A. Introductory Material

- 44 - p. 227 Carolyn Pinsky, "The Internet: Brave New World or Same Old Thing?" (April 27, 1996).
- 45 - p. 267 Graham J.H. Smith *et al*, "Do We Want or Need an International Convention on Control of the Internet?" (paper presented to the Computer Law Association, Inc. 1997 CLA Pacific Rim Conference, Hawaii, 28 February 1997).

B. Foreign Legislation and Legal Activity

- 46 - p. 295 *The Singapore Broadcasting Authority Act, Chap. 297, The Schedule: Internet Code of Practice* (1996).
- 47 - p. 299 *The Singapore Broadcasting Authority (Class Licence) Notification* (1996).
- 48 - p. 307 Selwa Masri, "Attempts to Control the Internet: The Pacific Rim Experience" (paper presented by Thomas C. Dabney to the Computer Law Association, Inc. 1997 CLA Pacific Rim Conference, Hawaii, 28 February 1997 and copyright America Online, Inc.).

VIII - OTHER INTERNET ISSUES

- 49 - p. 331 Robert M. Frank, "Cybernames: Domain Name Issues and Conflicts in Cyberspace" (1996) 12 *Canadian Intellectual Property Review* 367.
- 50 - p. 337 Glen A. Bloom and Thomas J. Denholm, "Research on the Internet: Is Access Copyright Infringement?" (1996) 12 *Canadian Intellectual Property Review* 337.

IX - ELECTRONIC COMMERCE**A. Introductory Material**

- 51 - p. 355 Raymond T. Nimmer, "Electronic Contracting: Legal Issues" (1996) *John Marshall Journal of Computer & Information Law: Selected Reprints* 3.
- 52 - p. 377 Michael Erdle, "Legal Issues in Electronic Commerce" (1996) 12 *Canadian Intellectual Property Review* 251.

B. International Model Law

- 53 - p. 397 Fraser Rowand, "Memorandum on the UNCITRAL Model Law on Electronic Commerce" (Smith Lyons, 18 June 1997) [unpublished].
- 54 - p. 405 Richard Hill & Ian Walden, "The Draft UNCITRAL Model Law for Electronic Commerce: Issues and Solutions" (March 1996) 13:3 *The Computer Lawyer* 18.
- 55 - p. 413 UNCITRAL, *Report of the United Nations Commission on International Trade Law on the work of its Twenty-Ninth session (28 May - 14 June 1996) General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17)* [excerpt], UNCITRAL Model Law on Electronic Commerce.

COURSE MATERIALS - VOLUME 3: PRECEDENT AGREEMENTS

I - EMPLOYEE AGREEMENTS

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- 2 - p. 21 Assignment of Copyright.

II - SOFTWARE DEVELOPMENT AGREEMENTS

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- 4 - p. 47 Beta Testing Agreement.

III - USER LICENSING

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- 7 - p. 81 Shrinkwrap User Licence.
- 8 - p. 89 Evaluation Licence.

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- 12 - p. 161 Teaming Agreement.
- 13 - p. 173 Escrow Agreement.
- 14 - p. 185 Business Continuity Services Agreement.
- 15 - p. 207 Home Page Hosting Agreement.
- 16 - p. 217 EDI Model Agreement (EDI Council of Canada).

IV - STRUCTURE, FINANCING AND TAXATION

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- 18 - p. 261 Offering Memorandum.
- 19 - p. 287 Offering Memorandum -- Continuous Offering.

